



Early Journal Content on JSTOR, Free to Anyone in the World

This article is one of nearly 500,000 scholarly works digitized and made freely available to everyone in the world by JSTOR.

Known as the Early Journal Content, this set of works include research articles, news, letters, and other writings published in more than 200 of the oldest leading academic journals. The works date from the mid-seventeenth to the early twentieth centuries.

We encourage people to read and share the Early Journal Content openly and to tell others that this resource exists. People may post this content online or redistribute in any way for non-commercial purposes.

Read more about Early Journal Content at <http://about.jstor.org/participate-jstor/individuals/early-journal-content>.

JSTOR is a digital library of academic journals, books, and primary source objects. JSTOR helps people discover, use, and build upon a wide range of content through a powerful research and teaching platform, and preserves this content for future generations. JSTOR is part of ITHAKA, a not-for-profit organization that also includes Ithaka S+R and Portico. For more information about JSTOR, please contact support@jstor.org.

complement a positive side. The 'theoretic' life is in itself a life well worth living, and the man who loses his life for its sake does not truly find it; to be 'mortified' in this sense is to have achieved the freedom which truth bestows, a harmony unbroken by carnal discords, and a god-like-ness which is the veritable *eudaemonia*. Moreover, the philosopher,—who is at once 'the mortified man,' and the seer of life *sub specie æternitatis*, through his vision of Ideal Good,—is in duty bound to use his virtue and knowledge in the service of society. For himself the theoretic life is all-sufficient, but "no man liveth to himself" but rather to the *polis* and the cosmos of which he is a member; so that it behooves the philosopher to return from his specular mount of vision to 'the cave' of the darkness of this world, there to engage in the work of turning from darkness to light the prisoners of ignorance. In short, theory must be combined with praxis; the dialectician must turn educationist: the man who is 'converted' must 'strengthen the brethren.'

And this is precisely what the Platonic Socrates does. Morals with him is Art no less than Science: his whole energy is devoted to realizing upon earth amongst his fellows the type of virtue 'laid up in the heavens,' 'the pattern showed him in the mount.' By example even more than by precept he exhibits 'the beauty of holiness,' making actual once for all in the sphere of history the personal ideal as conceived by Plato.

R. G. BURY.

CAMBRIDGE.

ETHICAL PROBLEMS OF PRISON SCIENCE.

CHARLES RICHMOND HENDERSON.

I. The existence of a multitude of anti-social persons in a nation affects morality and character in varied ways. By physical inheritance from persons whose lives have

usually been vicious and depraved the community must expect to suffer from disease and from all the burdens inevitable in carrying the support of defective and abnormal persons to the third, and even later generations. The intimate relations between physical conditions and character are so well understood in our day that they do not require special argument or illustration. Significant also is the fact, which it is difficult to reduce to figures, that the social income is so seriously reduced by crime that means are often lacking for the support of the agencies of culture. There are not enough rooms in our school houses, teachers are poorly paid, playgrounds are too narrow, and a thousand wants of vital interest are not satisfied because the financial resources of the state are exhausted in the conflict with crime. Mr. Eugene Smith, President of the New York Prison Association, has made a careful estimate of the cost of the criminal class in the United States. It pretends to be nothing more than an estimate, but it is probable that its vast figures fall below rather than rise above the real expense of the nation. The members of the criminal class are, as a rule, vicious, and their evil example tends to counteract all of the refining influences of orderly family life, educational institutions, church, and good literature. In wide districts of our cities hundreds of thousands of boys catch the enthusiasm of the adventurous spirit of the notorious criminals who live near them. The way in which the conduct of criminals is advertised, both in the newspapers and in the cheap and popular stories read by many children and youth, tends to enlarge the field of influence of this depraving example. It is incredible to refined persons and to honest workmen, who live habitually in another atmosphere, to learn for the first time how the very actions which are regarded by most of us with disgust and horror, seem admirable to the youth who live narrow lives and are not subject to the higher standards of the best society. We must further count among the malign effects of the existence of the criminal class, the evil education of children who are

brought up under the influence of criminals and vicious persons. It is not at all surprising that our public schools, parental schools, and the reformatory institutions of the state should be crowded to overflowing with children and youth of this class.

Another factor is the temptation offered to ambitious politicians by the presence of the greedy class of voters in certain wards of all our cities. It is inevitable that policemen and their superior officers, councilmen, and even legislators and elective judges should at times come under the sway of these temptations. It is evident, therefore, that a policy of silence, ignorance, and neglect must be fatal to all the interests which are precious to men of the highest standards. If the criminal class were simply neutral, it might conceivably be left to itself, and to the inner causes of self-destruction; but so long as police stations, charity hospitals, jails and prisons bring together vast numbers of unclean men and women, every community keeps a breeding place of communicable diseases. Officers of the law are constantly exposed to this danger and no citizen can regard himself as entirely secure. Communicable diseases are samples of the contagious effects of criminal life in our cities. A vigorous, persistent, and rational policy must therefore be adopted and carried out by the city, state, and nation. The first condition of effecting any rational policy is to bring the whole question to the attention of scholarly men, who are competent to analyze situations, to weigh evidence, and to arrive at conclusions after all the essential factors have been duly considered.

II. The social problem in relation to the group of anti-social persons is complicated. First of all, the dangerous members of the criminal class must be restrained. People who are incapable of using freedom without damage to others must be shut up by themselves. This deprivation of that liberty which is so dear to almost every human being, is the method of society for intimidating the convict himself and of deterring those who are plotting

crime from carrying out their egoistic purposes. But this power of punishment to intimidate has very narrow limits. It is well known by students of the subject that the danger of being caught and of serving time acts as a stimulant to many adventurous criminals, and since most of them are essentially gamblers, they regard the chance of being detected and convicted among the risks of the game which they are playing. The vital connection between gambling and crime is well established, and it has great significance in estimating the real value of the deterrent agencies of society. The criminal is also characterized by narrow views of life, by want of foresight, and certain groups of them, by slavery to passion. These characteristics explain the small deterrent influence of our penal machinery upon the criminal class. At any rate, most of the sentences are short and have no deterrent effect upon a vast number of very degraded and even dangerous men. They do have the effect, however, upon first offenders, of lowering the strength and vitality of the higher motives.

For these reasons practical men have long been turning their attention to better methods of reforming convicts. By reformation is not usually meant a spiritual transformation of character, which is very difficult to verify, but simply training in social habits, which will hold a man to his place in society and keep him from positively destructive action. The great majority of anti-social persons cannot in the nature of the case be held in prisons all the time. After conviction they serve from ten days to many months, but on the average, after three or four years they are as free to go where they please as men of the best character. Therefore, their conduct in liberty is the chief social interest, and even as early as Plato the desirability of training such men for good citizenship was distinctly seen. The doctrine of reformation by punishment is by no means a modern novelty, although distinguished contributions to method have been made, even within recent years.

But the reformation of men of vicious habits is very difficult, and the result always in doubt. Therefore, the most far-seeing students are working at the problems of prevention. They would have society anticipate anti-social conduct and erect barriers in its way, or divert attention of the tempted from solicitations to the depraved and dangerous life. These means of prevention aim, first of all, at the elimination by various methods of segregation, isolation, and even asexualization of those who are manifestly unfit to remain free citizens or become parents. Furthermore, since disease is a cause of moral degeneration, emphasis is laid upon all of the improvements in housing and public hygiene which have recently enlisted very great, but not too great, interest in all civilized countries. Since many of the conditions of economic life render life uncertain and depressing, all of the forms of social legislation looking to improvement of income of the unskilled laborers have significance in relation to the prevention of crime and vice. But here we must not overlook the fact that crime on a scale hitherto unknown, if we exclude war, is a characteristic of the huge industrial and commercial organizations of recent years. Therefore, measures to prevent crime must be aimed quite as much at unscrupulous managers of capital as at the petty thief who steals because he is starving. We must also consider the preventive value of the agencies of education, the means of popular recreation, and the creation of higher interests which attract human beings away from the elementary and animal satisfactions of human beings. The movements for temperance reform and for dealing with abandoned men and women must be counted among the agencies of prevention.

But we are not at the end. It is not enough to assume a purely negative attitude toward the dangers arising from the existence of the anti-social class. Society has before it a vast task of constructive work, which will not merely diminish evil and avert disease, but will actually build up the physical, intellectual, and moral vitality of those

groups of human beings who are most liable to fall into crime. We may then say in general that the order of historical development and the order of logical thought may be indicated in a very general way by these words: revenge, intimidation, reformation, positive effort to reform the actually criminal, prevention, and socially constructive effort.

III. A good starting point for the study of American thought on this subject is developed in a remarkable series of resolutions drawn up by the eminent Dr. E. C. Wines, first Commissioner of the International Prison Commission, and adopted by the National Congress on Penitentiary and Reformatory Discipline held at Cincinnati in October, 1870. Those resolutions have become an American classic and deserve still the study of every citizen. Some of his declarations of principles may therefore be repeated here in direct quotation or paraphrase. "The treatment of criminals by society is for the protection of society, but since such treatment is directed to the criminal rather than to the crime, its great object should be his moral regeneration; hence, the supreme aim of prison discipline is the reformation of criminals, not the infliction of vindictive suffering." From this fundamental idea we advance to the demand for the progressive classification of prisoners based on character; we are ready to expect more from hope than from fear; from reward than from punishment; the prisoner must be placed under a régime where he is induced to secure desirable liberty by good conduct. For such a system the highest qualities of mind and heart are required in the administrative officers. Definite sentences should be replaced by those of indeterminate length, and release should be determined, not in advance, but by the conduct of the convict. Great emphasis must be placed upon education taken in its largest sense, and upon religion. If administrative officers are to have success in reforming bad men, they must have belief that this is possible. The interests of society and the interest of the convict being identical, the man who has gone

astray must be disciplined to discover this truth. Self-respect should not be destroyed, but cultivated as a means of holding a man to a good life. Industrial training is essential in any system of reform. The short sentences have a tendency to stimulate rather than repress transgression. Reformation is a work of time and cannot be effected under our system of short sentences for minor offenses. The declarations anticipate the development of industrial schools, which since 1870 have advanced very rapidly in effectiveness. They call for better methods of aiding discharged prisoners and their families. When the state has deprived an innocent citizen of liberty, and the mistake has been proved, it is a social duty to make reasonable indemnification for such wrongful imprisonment. Society is always responsible for improving conditions which inevitably cause criminal actions. The inequalities in the length of sentences should be reduced and a better principle found for determining the length of sentences. The improvement of prison statistics, architecture, organization, and management is emphasized. The responsibility of parents for the support and training of their children is mentioned,—a prophecy of the more recent legislation in Colorado,¹ Illinois, and elsewhere in regard to contributory neglect which is enforced by the juvenile courts. The declaration also insists upon the tendency which has, largely in consequence of this declaration, been forwarded in our most advanced states, the erection of central authority to guide, control, unify, and vitalize the system of each state. And, furthermore, the coöperation of good women in all such work is required.

By no means all these principles were originally discovered in America; many of their applications in administration were tested by European experience before they were introduced into American institutions. The story

¹ Reference is here made to the recent laws which authorize the creation of juvenile courts and define their powers and duties.

of this development need not occupy us here.² These ideas, however, have had in general a field of bolder experiment and freer development in our country, especially in connection with our reformatories for young men, our women's prisons, and our juvenile courts. Elmira Reformatory in New York is the institution which stands as a type; but the essential principles have been applied in other states and institutions, for women as well as for men, with great variety in methods and sometimes with a high degree of inventiveness, originality, and pedagogic insight. The higher aims of modern reformatories attract a nobler type of officers, and as the merit system of appointment and tenure displaces the spoils system, such officers remain at their tasks long enough to learn their professional duties.

IV. *The International Prison Congress.* Under the inspiration and direction of Dr. E. C. Wines, but at the suggestion of a Russian representative of prison science, the principal governments of Europe and the United States established the International Prison Commission for the study of the general principles and problems relating to the social treatment of crime. This congress has never yet met in the country from which the first incentive came for its organization. The first International Prison Congress was held in London in 1872. At intervals of about five years other congresses have been held in Stockholm, Rome, St. Petersburg, Paris, Brussels, and Budapest. The congress is officially invited by the government of the country in which it is held, and the sessions are convened at the national capital; but the congress is not entirely official, for organizations of specialists, philanthropists, and representatives of the legal and medical professions are invited to become members. By a joint resolution of the Senate and House of Representa-

² The essential features of this subject are discussed in the book of Dr. F. H. Wines, "Punishment and Reformation" (second ed., 1910), and in the four volumes to be distributed among the members of the International Prison Congress, prepared under the generous patronage of the Russell Sage Foundation.

tives of the United States, approved March 3, 1905, the President was authorized and requested to extend to the International Prison Congress an invitation to hold its eighth meeting on this side of the Atlantic. This invitation was accepted with expressions of genuine appreciation and cordiality at Budapest in 1905. The eighth session, therefore, will be held in Washington, D. C., October 2-8, 1910.

While this organization is called a prison congress, we must consider its program in order to have a correct conception of its real purpose and scope. From the official statement drawn up by the late Dr. Samuel J. Barrows, I quote this description of its regular plan of discussions:

The congress is divided into four sections:

Section I relates to criminal law. In this section are some of the most eminent jurists in Europe. The discussions here are not merely academic. They relate to the fundamental principles of penal law and their practical application. They include the organization and administration of courts, the structure of penal codes, questions of criminal procedure, the classification of offenses, and application of penalties. Questions of extradition, the relation of nations to each other in the suppression of crime naturally fall under this section.

Section II relates to prison administration. It is naturally made up of those who have had experience as directors, superintendents, or wardens of prisons or correctional institutions. Everything relating to prison structure, hygiene, prison industries, the classification, organization, and education of offenders, to dietaries, medical treatment, the prevention and care of tuberculosis, and other prison diseases, the study of the criminal, and many other practical questions come under this section.

Section III relates to preventive means. This covers a wide field of sociological inquiry as to the causes and the prevention of crime.

Section IV relates to children and minors. Child saving is one of the most important and absorbing questions of our time. Neglected childhood, whether from neglected homes, neglected schools, or neglected factories, means an increase of crime. This section has given a new impetus to the subject of children's courts and the legal treatment of children accused of crime. Though the congress has done much to indicate better methods of prison discipline and improvement in criminal codes, it is destined to have a still greater influence in the reduction of crime through the serious study and attention which it is now giving to all preventive influences.

The International Prison Commission acts as the executive committee of the congress, and it meets every other

year. It is composed of one member of each of the nations that have formally joined the commission and annually subscribe to its funds. This commission prepares and secures reports and conducts investigations in various countries in relation to crime and its treatment. The proceedings and reports of the congresses are published and circulated in the various nations. The commissioners of the United States have also published various reports of great value. The questions which will be discussed in 1910 in the First Section on *Penal Legislation* are the following:

Question 1. Assuming that a rational relation exists between the principle of the indeterminate sentence and the fundamental principle of criminal jurisprudence, (a) What class of delinquents should be submitted to, and what class excluded from its application? (b) How may a sentence of this kind without minimum or maximum limits be applied without danger to individual liberty?

If it is not admitted that there is a relation between the principle of the indeterminate sentence and the fundamental principles of criminal jurisprudence, is there ground for adding to the definite sentence with respect to a particular individual a restriction in the form of a supplemental penalty; and if so, in what cases, and how is it to be applied?

Question 2. How and in what manner may effect be given to penal sentences pronounced by foreign tribunals, especially with reference to habitual criminality and legal incapacity?

Question 3. To resist the tendency of criminals to band themselves together is it not desirable to make participation in criminal acts or agreements a distinct crime, or at least to make all such complicity a legal aggravation?

Question 4. What part does the death penalty play in the penal system of the different countries?

In Section II on *Prison Administration* the following questions will be discussed:

Question 1. What are the essential principles of a modern reformatory system, and upon what rational methods should it be based? Should its application be limited by age, or other classification? If so, under what limitations?

Must we not admit the necessity of special treatment for youthful criminals and even recidivists from sixteen to twenty-one or twenty-three years, recognizing the plasticity of that age and the possibility of curing by special methods physical, moral and intellectual, the perverted instincts of young offenders? In that case is it not desirable to give to the courts

the power of imposing a special penalty: (a) sufficiently long to permit the full application of all means of reformation? (b) permitting the free application of conditional liberation?

Question 2. What improvements may be made in the parole system or the system of conditional liberation already existing in certain countries?

Question 3. What are the best means for assuring productive work for prisoners in small prisons?

Methods for prevention will be discussed in Section III under the following topics:

Question 1. What is the effect upon criminality of the legal measures taken in different states in the form of probation or suspension of sentence, etc., to avoid the necessity of imprisonment, especially at the time of first conviction, taking account of the age, character, and antecedents of the person? And is it desirable that these and similar laws should be extended?

Question 2. What measures should be taken for the suppression of mendicity and vagabondage, especially in view of modern criminal tendencies? What rules should be adopted for the organization of workhouses for mendicants and vagabonds?

Question 3. How is it possible, while paying due attention to the correction of the offender, to lighten the heavy economic burden falling upon families owing to the imprisonment of those upon whom they are dependent?

Question 4. Have the experiments of the last ten years made in certain countries providing special establishments for the detention of inebriate criminals, even recidivists, for long periods (two or three years) been successful or not? Is it necessary to complete the penitentiary discipline of these establishments by special medical treatment?

One of the most interesting problems, that of treatment of juvenile offenders and morally imperiled children, will be discussed in Section IV:

Question 1. Should young delinquents be subjected to the penal procedure applicable to adults? If not, what principles should guide the procedure applied to children and youthful offenders?

Question 2. Should special establishments be maintained for abnormal, backward, and feeble-minded children showing dangerous moral tendencies?

Question 3. What measures should be taken to correct the idleness and vagabondage of children in large cities?

Question 4. Is it desirable to take special measures for the protection of children born outside of wedlock; and if so, what measures? Owing to the neglect or abandonment due to irresponsible parents, are such children sufficiently protected by existing laws and institutions, or is special legislation and provision desirable?

A question for investigation. Without placing it on the program of the discussion for the next congress, the commission has deemed it desirable

to collect information in answer to the following question: How should local prisons, jails, and lockups be constructed and organized?

These questions were carefully selected by the International Prison Commission out of a large number suggested by specialists in all countries. The topics were sent to many persons known to be thoroughly competent to treat them on the basis of their study and experience. The papers are all sent to Berne, Switzerland, in the early part of the year in which the congress is held, are there translated into French, printed, and sent to all of the members of the congress who have paid the required sum,—twenty-five francs. Only members of the congress are permitted to attend the section meetings and the meetings of the General Assembly, and to receive copies of the publications of the congress and commission. After the topics have been formulated as resolutions, they are debated in the sections, and the decisions of the sections are considered for the second time in a meeting of all the members of the congress in a general assembly, where they take their final form for publication as the decisions of the congress.

More important than the votes of the congress are the reasons for the judgments of the experts, which are published in full in the various papers or "rapports." The topics for this year, while they are of very general interest, were drawn up with special reference to the conditions in the United States. Almost all the questions look distinctly to social protection rather than to some scholastic theory of retribution.

V. It is very natural that the institutions and methods of the United States should be placed in a conspicuous position before the world in connection with the international meeting. For that very reason it is very desirable that we should refrain from boastfulness and revelations of our insular position. We are in a world current; we have more to learn than to teach; our statistics are very inadequate to prove our claims of superiority, even when these are in fact well founded. In the excursion of the invited delegates from European and other countries during

the fortnight preceding the congress, we shall be able to show, indeed, some of the best institutions in the world,—best in structure and best in administration. On the other hand, we shall be obliged to show institutions where the simplest requirements of hygiene are neglected, where there are some actual barbarities, horrors, and abuses. The specific trade mark of America,—graft,—cannot be hidden from our visitors. It is not desirable that we should follow a policy of concealment. We need criticism, just that clear and intelligent and sympathetic criticism which our visitors will express. They are all prepared to appreciate the best features in our methods and laws, but they are too competent as experts to be blind to the defects which we regret and are trying our best to conquer. One of the most important illustrations of our defects is found in the county jail, the average city lockup, and the treatment of offenders sentenced to short terms in local establishments of punishment.

Yet we are doing some things worthy of note which our distinguished visitors will generously estimate at their proper worth. No one questions that our juvenile courts, although not absolutely new in idea, have had a development in this country which is entirely to our credit. Competent European writers have called attention to them and their essential principles are regarded as sound wherever they have been adequately discussed.

We have made a very fair beginning with the probation of occasional and hopeful offenders. This is by no means entirely a novelty. It has been employed with success on the other side of the Atlantic, and the principle on which it rests, that of preserving young persons from the moral contagion of criminal society into which imprisonment inevitably plunges them, is well established. The congress will, without doubt, help us to clarify our ideas and secure wider public attention for a measure which has a great future but which needs to be applied with extreme care and full information.

Our parole system, again, is not entirely original in the

United States. It is borrowed in many features from European methods, but we have improved and developed it in a few states of the Union with very encouraging results. In certain circles we are confusing the parole system with the so-called 'indeterminate sentence.' As a matter of fact there is no law in any one of our states based upon the principle of the entirely indeterminate sentence, not even the law drawn for the Elmira Reformatory, where a maximum term is fixed by law. The indeterminate sentence is by no means universally accepted by the legal profession, and it is positively opposed by many prosecutors, policemen, and judges on various grounds. We should, therefore, carefully avoid confusing our parole system, in our discussions, with the indeterminate sentence. Many of us confidently believe that much greater flexibility ought to be given in the administration of the sentences of our criminal courts, and that much more ought to be made of the conduct of the prisoner, both in the prison itself and in the conditional liberty which he enjoys on parole, in fixing the period of his punishment. But we have by no means yet worked out the proper administrative and judicial machinery for making this principle effective in the highest degree. Of the value of the parole system, when limited to prisoners of the proper category and vigorously carried out by an adequate corps of competent parole officers, there can be no question.

The section which is to discuss a general policy of prevention will not find so much material in the social legislation of the United States as in the older countries of European civilization. We have a great many hopeful and honorable schemes for improving the conditions of the tempted and the weak, but they are generally fragmentary, isolated, voluntary plans which have no basis in law and government, and therefore break down under the forces of competition and the lack of powerful central supervision and control. For example, we have no law which requires a state to provide for the support of a prisoner who has, in the ordinary work of the factory in the

prison, received injuries which render him permanently incapable of earning a living. This is one of the forms of injustice which has hardly even been considered in this country. We have been looking too much to deterrents, to appeals to fear for social protection. Only of late has the parental idea of government, the moral responsibility of the city, state, and nation, become a subject of general discussion. We have no national system of social education such as is found in the policy of the German Empire. Our intense individualism, which is often only a fine name for savage selfishness, needs the correction of an international congress,³ where the failures of egoism are made apparent in the tragical story of crime.

CHARLES RICHMOND HENDERSON.

UNIVERSITY OF CHICAGO.

THE APPEAL TO NATURE IN MORALS AND POLITICS.*

W. J. ROBERTS.

I WISH this evening to treat the vast subject which I have chosen in a descriptive rather than in an analytic or critical spirit: to exhibit a very ancient, and yet in our own day vigorous and flourishing, mode of regarding moral and political questions, in its concrete manifestation or in its 'working' rather than to subject it to the demands which contemporary philosophical fashion would impose

³ Further information about the International Prison Congress will be furnished to any person interested, if request is sent to the writer of this article, care of the University of Chicago. Full reports in French are furnished to members of the Congress; abstracts of papers are furnished in English to members of the American Prison Association, whose secretary is Mr. Joseph P. Byers, Randall's Island, New York.

* An address to the Philosophical Society of the University College, Cardiff, South Wales.